

Message Text

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TO AMEMBASSY MANILA

C O N F I D E N T I A L STATE 052135

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E.O. 11652: GDS

TAGS: ETRD, RP

SUBJECT: TERMINATION OF OVERDUE COTTON CONTRACTS

REF: (A)STATE 32431(B)MANILA 2191 (C) MANILA 2226

1. THE DEPARTMENT APPRECIATES THE EMBASSY'S COMMENTS ABOUT PLANS BY U.S. COTTON EXPORTERS TO TERMINATE SOME OF THEIR OVERDUE COTTON CONTRACTS IN THE PHILIPINES AND SHARES THE EMBASSY'S CONCERN OF THE COMMERCIAL REPUTATION OF U.S. FIRMS AND FOR FUTURE SUPPORT BY THE PHILIPPINE GOVERNMENT FOR U.S. COMMERCIAL OBJECTIVES.

2. HOWEVER, THE DEPARTMENT CANNOT BELIEVE PHILIPPINE GOVERNMENT REALLY EXPECTS U.S. SHIPPERS TO KEEP DEFAULTED CONTRACTS OPEN INDEFINITELY WAITING FOR PHILIPPINE MILLS TO DECIDE WHETHEF OR NOT THEY ISH TO PICK UP CONTRACTS. WHILE THE GOP HAS INDISPUTABLY DONE MUCH TO RESOLVE THE OVERDUE
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CONTRACT PROBLEM, IT IS JUST AS INDISPUTABLE THAT A NUMBER

OF CONTRACTS REMAIN IN DEFAULT LONG PAST THE DEADLINES FOR OPENING LETTERS OF CREDIT, SPECIFIED IN THE GOP'S ASSURANCES. AS THE SHIPPERS ARE RECEIVING NO CARRYING CHARGES IN RESPECT TO CONTRACTS COVERED BY THE ASSURANCES, IT WOULD BE INHERENTLY UNFAIR TO LEAVE THE TIMING OF CONTRACT PERFORMANCE ENTIRELY TO THE DEFAULTING BUYERS.

3. ALTHOUGH THE AMERICAN COTTON EXPORTERS ASSOCIATION MAINTAINS THAT THE SHIPPERS HAVE THE LEGAL RIGHT TO TERMINATE DEFAULTED ANNEX CONTRACTS, IT HAS AGREED TO DEPARTMENT'S REQUEST THAT U.S. SHIPPERS PROVIDE PHILIPPINE GOVERNMENT AND PHILIPPINE MILLS WITH FINAL OPPORTUNITY TO HONOR CONTRACTS AT NOW FAVORABLE CONTRACT PRICES BY PROVIDING THEM WITH ADVANCE NOTICE THAT ANNEX CONTRACTS WILL BE TERMINATED.

4. IT SHOULD BE STRESSED THAT THIS POSITION IS ASSERTED ONLY IN REGARD TO THOSE LONG OVERDUE CONTRACTS REMAINING ON THE ANNEX TO THE PHILIPPINE GOVERNMENT ASSURANCES. THE U.S. GOVERNMENT HAS NOT PREVIOUSLY ADVOCATED AND IS NOT NOW ADVOCATING ONE RULE FOR BUYERS AND ANOTHER FOR SELLERS.

5. ACCORDINGLY, THE DEPARTMENT REQUESTS THE EMBASSY TO DISCUSS THE PROCEDURES FOR THE TERMINATION OF OVERDUE CONTRACTS WITH THE GOVERNMENT OF THE PHILIPPINES AGAIN. THE EMBASSY SHOULD NOTE THE DEPARTMENT'S CONTINUING SUPPORT FOR PERFORMANCE ON CONTRACT OBLIGATIONS AND EMPHASIZE THAT THE TERMINATION PROCEDURES PROPOSED BY ACEA ARE INTENDED TO PROVIDE TO DEFAULTING PHILIPPINE MILLS A FINAL OPPORTUNITY TO PURCHASE COTTON AT CONTRACT PRICES.
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